

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090902

ORDER GRANTING MOTION TO DISMISS ISSUE FOR LACK
OF JURISDICTION

OCTOBER 18, 2021

On September 28, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming the Capistrano Unified School District. The Office of Administrative Hearings is referred to as OAH.

On October 8, 2021, Capistrano filed a Motion to Dismiss asserting that OAH lacks jurisdiction to adjudicate Issue Number Three as alleged in the complaint. OAH received no response from Student.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education,” and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a free appropriate public education to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, the Americans with Disability Act (42 U.S.C. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

DISCUSSION

Student alleges in Issue Number Three that Capistrano violated his rights under Section 504 of the Rehabilitation Act and under the Americans with Disability Act. Capistrano correctly asserts that OAH lacks jurisdiction over these claims. OAH does not

have jurisdiction to resolve these claims. Accordingly, Issue Number Three in Student's complaint is dismissed.

ORDER

1. Capistrano's Motion to Dismiss is granted as to Issue Number Three in Student's complaint. The matter will proceed as scheduled as to the remaining issues.

IT IS SO ORDERED.

Charles Marson

Charles Marson

Administrative Law Judge

Office of Administrative Hearings